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February 23, 2012

***Via Certified Mail -
Return Receipt Requested***

Charles Cossey
Wastewater Treatment Plant Manager
City of Yreka
856 North Main Street
Yreka, CA 96097

Steven W. Baker
City Manager
City of Yreka
701 Fourth Street
Yreka, CA 96097

Re: Notice of Violations and Intent to File Suit Under the Clean Water Act

Dear Head of Operations:

NOTICE

The Clean Water Act ("CWA" or the "Act") § 505(b) requires that 60 days prior to the initiation of a civil action under CWA § 505(a), [33 U.S.C. § 1365(a),] a citizen must give notice of the intent to sue to the alleged violator, the Environmental Protection Agency ("EPA") and the State in which the violations occur.

This letter serves as notice on behalf of Northern California River Watch ("River Watch") that River Watch hereby places the City of Yreka, ("the Discharger") on notice that following the expiration of 60 days from the date of this Notice, River Watch intends to bring suit in the United States District Court against the Discharger for continuing violations of an effluent standard or limitation, permit condition or requirement, a Federal or State Order or Plan issued under the CWA, in particular, but not limited to CWA § 505(a)(1), [33 U.S.C. § 1365(a)(1),] the Code of Federal Regulations, and the Regional Water Quality Control Board's "Basin Plan, as exemplified by the incidents of non-compliance with the CWA by the Discharger, identified and outlined below.

INTRODUCTION

The CWA prohibits any discharge of pollutants from a point source to waters of the United States except as authorized under a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to CWA § 402, which allows the discharge of designated pollutants at certain levels subject to certain conditions. The effluent discharge standards or limitations specified in a NPDES permit define the scope of the authorized exception to the 33 U.S.C. § 1311(a) prohibition, such that violation of a permit limit places a polluter in violation of 33 U.S.C. § 1311(a) and thus in violation of the CWA. Private parties may bring citizens' suits pursuant to 33 U.S.C. § 1365 to enforce effluent standards or limitations, which are defined as including violations of 33 U.S.C. § 1311(a) and 33 U.S.C. § 1365(f).

The CWA provides that authority to administer the NPDES permitting system in any given state or region can be delegated by the EPA to a state or to a regional regulatory agency, provided that the applicable state or regional regulatory scheme under which the local agency operates, satisfies certain criteria. See 33 U.S.C. § 1342(b). In California, the EPA has granted authorization to a state regulatory apparatus comprised of the State Water Resources Control Board (SWRCB) and several subsidiary regional water quality control boards, to issue NPDES permits. The entity responsible for issuing NPDES permits and otherwise regulating discharges in the region at issue in this Notice is the Regional Water Quality Control Board, North Coast Region (RWQCB).

The Discharger owns and operates wastewater collection, treatment, and disposal facilities ("WWTF") for municipal wastewater from the City of Yreka. The Discharger discharges treated effluent to a 31-acre, subsurface, drip disposal field (Disposal Facility) located 800 feet north of the WWTF in NW¼ Section 14, T45N, R7W. The Discharger uses percolation ponds for excess flows during high inflow periods. The Discharger's wastewater collection system consists of approximately 50 miles of gravity pipeline, pressure mains, 4 pump stations, interceptor lines, collection lines, cleanouts, and manholes.

On May 15, 2003, the RWQCB issued Waste Discharge Requirements (WDRs) Order No. R1-2003-0047, governing discharges associated with the Discharger's WWTF, sewer collection system, and Disposal Facility.

On May 2, 2006, the SWRCB adopted Order No. 2006-0003-DWQ, Statewide General Waste Discharge Requirements for Wastewater Collection Agencies (General WDRs). On October 26, 2006, the Discharger enrolled for coverage under the General WDRs.

Four percolation ponds located adjacent to the WWTF, are used as the primary, pre-upgrade effluent disposal facilities. The WWTF, Disposal Facility and percolation ponds are located adjacent to Yreka Creek.

Post-upgrade design specifications indicate a dry weather (June through October) flow treatment capacity of 1.3 million gallons per day (mgd). The Disposal Facility was designed to accommodate 1.3 mgd. The percolation ponds provide additional disposal capacity. Although the average influent wastewater flows do not exceed the design capacity, single-peak flows often do by a factor of 3 or 4.

The proximity of the WWTF and Disposal Field to Yreka Creek will continue to be a concern regarding the potential for the contribution of pollutants including metals, endocrine disruptors and biostimulants (nutrients) to the Creek. The discharge of pollutants from the percolation ponds to Yreka Creek constitute a violation of the CWA.

The Basin Plan for the North Coast Region includes water quality objectives, implementation plans for point source and non-point source discharge prohibitions and statewide plans and policies. The Basin Plan prohibits discharges to Klamath River and its tributaries except as provided in the Action Plan for Storm Water Discharges.

Beneficial uses for Yreka Creek, Shasta River, and Klamath River include: municipal, agricultural and industrial water supply; groundwater recharge; freshwater replenishment; contact water recreation; non-contact water recreation; warm-freshwater, cold-freshwater and wildlife habitat; migration of aquatic organisms; spawning, reproduction, and/or early development; commercial and sport fishing; and, aquaculture.

The Discharger has a history of sewer system overflows (SSOs) from its aging sewer lines. As recorded in the SWRCB, California Integrated Water Quality System (CIWQS) Interactive SSO Reports, the Discharger's collection system experienced numerous SSOs between October 26, 2006 and February 15, 2012.

Structural defects in the Discharger's collection system, which allow inflow and infiltration (I/I) of rainwater and groundwater into the sewer lines is a contributing factor in SSOs. Overflows caused by blockages and I/I result in the discharge of raw sewage into gutters, canals and storm drains which are connected to adjacent surface waters – all waters of the United States. In addition to surface overflows which discharge overland into surface waters, underground leakages (exfiltration) caused by pipeline cracks and other structural defects result in discharges to adjacent surface waters via underground hydrological connections.

Studies tracing human markers specific to the human digestive system in surface waters adjacent to defective sewer lines, have verified the contamination of the adjacent waters with untreated sewage. River Watch alleges that such discharges are continuous wherever aging, damaged, structurally defective sewer lines in the Discharger's collection system are located adjacent to surface waters. Surface waters and groundwater become contaminated with fecal coliform, exposing people to human pathogens. The Discharger's chronic collection system failures pose a substantial threat to public health.

Under the Basin Plan any point source discharge of sewage effluent to waters of the United States must comply with technology-based, tertiary treatment standards at a minimum, and any more stringent requirements necessary to meet applicable water quality standards and other requirements. Hence, the unpermitted discharge of wastewater from a sanitary sewer system to waters of the United States is illegal under the CWA. In addition, the Basin Plan adopted by the RWQCB contains discharge prohibitions which apply to the discharge of untreated or partially treated wastewater.

The Discharges as described herein constitute a nuisance, and are either: injurious to health; indecent or offensive to the senses; or, an obstruction to the free use of property; and, occur during, or as a result of, the transportation, disposal or treatment of wastes.

The Discharger's collection system operations are not regulated under a NPDES Permit, but are currently regulated under the Statewide General WDRs adopted on May 2, 2006.

NOTICE REQUIREMENTS

The CWA requires that any Notice regarding an alleged violation of an effluent standard or limitation or of an order with respect thereto, shall include sufficient information to permit the recipient to identify the following:

1. *The specific standard, limitation, or order alleged to have been violated.*

River Watch has identified discharges of raw sewage from the Discharger's wastewater treatment plant collection system to surface waters in violation of the prohibition of the CWA with regard to discharging a pollutant from a point source to waters of the United States without a NPDES permit, CWA § 301(a), 33 U.S.C. § 1311(a) and 33 U.S.C. § 1365(f).

2. *The activity alleged to constitute a violation.*

River Watch has set forth narratives above describing the discharges of raw sewage to surface waters as the activities leading to violations, and describing with particularity specific incidents referenced in the SWRCB's CIWQS SSO Public Reports and other public documents in the Discharger's possession or otherwise available to the Discharger, and incorporates by reference records cited above from which descriptions of specific incidents were obtained.

3. *The person or persons responsible for the alleged violation.*

The entity responsible for the alleged violations is the City of Yreka, identified throughout this Notice as the "Discharger".

4. *The location of the alleged violation.*

The location or locations of the various violations are identified in records created and/or maintained by or for the Discharger which relate to the Discharger's wastewater treatment plant and associated sewage collection system located in the City of Yreka, as further described in this Notice.

5. *The date or dates of violation or a reasonable range of dates during which the alleged activity occurred.*

River Watch has examined records of the RWQCB as to the Discharger and the WWTF for the period from October 26, 2006 to February 15, 2012, therefore, the range of dates covered by this Notice is October 26, 2006 to February 15, 2012. River Watch will update this Notice from time to time to include all violations which occur after the range of dates currently covered by this Notice.

6. *The full name, address, and telephone number of the person giving notice.*

The entity giving notice is Northern California River Watch, P.O. Box 817, Sebastopol, CA 95472, E-mail US@ncriverwatch.org, referred to throughout this Notice as "River Watch". River Watch is a non-profit corporation organized under the laws of the State of California, dedicated to the protection and enhancement of the waters of the State of California including all rivers, creeks, streams and groundwater in Northern California.

VIOLATIONS

River Watch contends that from October 26, 2006 to February 15, 2012, the Discharger has violated the CWA, the Basin Plan and the Code of Federal Regulations for discharging pollutants to waters of the United States from its sewage collection system without a NPDES permit. The below-listed violations are reported by RWQCB staff, and evidenced by the SWRCB's CIWQS SSO Reporting Program Database Records. Furthermore, River Watch contends these violations are continuing.

<u>Violations</u>	<u>Description</u>
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|-------------|--|
| 1800 | Collection system overflows caused by underground exfiltration. This is an event in which untreated sewage is discharged from the collection system prior to reaching the WWTF. Underground discharges are alleged to have been continuous throughout the period from October 26, 2006 to February 15, 2012. Evidence to support the allegation of underground discharge of raw sewage exists in the Discharger's own mass balance data regarding the number of connections in the service area, estimates of average daily volume of wastewater per connection, influent flow volumes to the WWTF reported in the Discharger's records, video inspection of the collection system, and testing of waterways adjacent to sewer lines, creeks and wetlands for human markers, nutrients, pathogens and other constituents indicating sewage contamination. |
| 1800 | Percolation Pond discharges caused by underground exfiltration. This is an event in which untreated or partially treated sewage is discharged from the percolation ponds to Yreka Creek. Underground discharges are alleged to have been continuous throughout the period from October 26, 2006 to February 15, 2012. Evidence to support the allegation of underground discharge of sewage exists in the Discharger's own mass balance data and testing of waterways adjacent to the ponds for nutrients, pathogens and other constituents indicating sewage contamination. |

- 45 SSOs. As evidenced in the SWRCB's CIWQS Interactive SSO Reports, including the reports discussed above. Also, unrecorded surface overflows witnessed by local residents.

REMEDIAL MEASURES REQUESTED

River Watch believes the following remedial measures are necessary to bring the Discharger into compliance with the CWA and the Basin Plan, and reflect the biological impacts of the Discharger's ongoing non-compliance with the CWA:

1. A reduction of collection system I/I through an aggressive collection system management, operation and maintenance ("CMOM") program, with clear time lines for prioritized repairs. The CMOM program shall include:
 - a. The amendment of the Risk Assessment Plan in the Discharger's Sewage System Management Plan, to specify that defective sewer lines located within 150 feet of surface waters, including drainage channels and creeks, will be given a higher priority for repair and/or replacement than other sewer lines with comparable defects located more than 150 feet from surface waters. Said prioritization will be consistent with information provided by the Discharger's Flow Monitoring and Inflow/Infiltration Study completed in June 2009. The Discharger's CCTV Program shall prioritize the televising of sewer lines identified by the Flow Monitoring and Inflow/Infiltration Study completed in 2009 as necessary to assess the exact location of I/I sources.
 - b. The provision of funding in the Discharger's Capitol Improvements Plan to CCTV all gravity sewer lines every 10 years, except for lines CCTV'd within the prior 10 years, and lines constructed, replaced or repaired within the prior 20 years.
2. A mandatory private sewer lateral inspection and repair program triggered by any of the following events:
 - a. Transfer of ownership of the property if no inspection/replacement of the sewer lateral occurred within 20 years prior to the transfer.
 - b. The occurrence of 2 or more SSOs caused by the private sewer lateral within 2 years.
 - c. A change of the use of the structure served (1) from residential to non-residential uses, (2) to a non-residential use which will result in a higher flow than the current non-residential use, and (3) non-residential uses where the structure served has been vacant/unoccupied for more than 3 years.
 - d. Upon replacement or repair of any part of the sewer lateral.

- e. Upon issuance of a building permit with a valuation of \$25,000.00 or more.
 - f. Upon significant repair or replacement of the main sewer line to which the lateral is attached.
3. Compliance with monitoring and reporting requirements, especially regarding all overflows which reach storm drains or discharge directly to state waters, including a more detailed account of SSOs and remedial actions, with sufficient information to verify and document SSOs start times, durations, volumes, volumes recovered, volumes reaching surface waters and remedial actions including whether any chemical agents were used.
 4. Creation of web site capacity to track information regarding SSOs. In the alternative, a link from the Discharger's web site to the SWRCB's CIWQS SSO Public Reports. Provision of notification to all customers and other members of the public of the existence of the web based program, including a commitment to respond to private parties submitting overflow reports.
 5. Performance of human marker sampling on creeks, rivers, wetlands and areas adjacent to sewer lines, to test for sewage contamination from underground exfiltration.
 6. Placement of monitoring wells between the percolation ponds and Yreka Creek. Reconstruction of percolation ponds to eliminate discharge of pollutants through hydrologically connected ground water.

CONTACT INFORMATION

River Watch has retained legal counsel with respect to the issues raised and violations of the CWA as alleged in this Notice. All communications should be addressed to:

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CONCLUSION

The violations as set forth in this Notice effect the health and enjoyment of members of River Watch who reside and recreate in the affected watershed communities. Members of River Watch use the affected watershed for domestic water supply, agricultural water supply, recreation, sports, fishing, swimming, hiking, photography, nature walks and the like. The members' health, use and enjoyment of these natural resources is specifically impaired by the Discharger's alleged violations of the CWA as set forth in herein.

River Watch believes this Notice sufficiently states grounds for filing suit. At the close of the 60-day notice period or shortly thereafter River Watch intends to file a citizen's suit under CWA § 505(a) against the Discharger for the violations alleged in this Notice.

During the 60-day notice period, however, River Watch is willing to discuss effective remedies for the violations referenced in this Notice. If the Discharger wishes to pursue such discussions in the absence of litigation, it is encouraged to initiate such discussions immediately so that the parties might be on track to resolving the issues raised in this Notice before the end of the notice period. River Watch will not delay the filing of a lawsuit if discussions have not commenced by the time the 60-day notice period ends

Very truly yours,


Jack Silver

JS:lhbm

cc: Administrator
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